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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,787	02/14/2002	David P. Lobeck	DL01	2195

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EXAMINER

MENDOZA, ROBERT J

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 09/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/683,787

Applicant(s)

LOBECK, DAVID P.

Examiner

Robert J Mendoza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 10-13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco (USPN 5,735,751).

Lee illustrates, in FIG. 4, a golf practice device comprising a body that has vertical sides that can be struck by a moving golf ball. Lee illustrates, in FIG. 1, a body having a head portion and a base. Lee illustrates, in FIG. 2, a base consisting of a pin that can be pushed into the ground. Lee illustrates, in FIG. 4:2, the sides that struck by the golf ball are cylindrical. Lee's golf practice device is used for the same purposes and provides the same functions as the Applicant's invention but lacks all the electrical components claimed to produce an electronic sound when a golf ball strikes the putting aid. Pacheco, in an analogous golf practice device, teaches, in col. 2:56-67, col. 3:1-28 and FIG. 5, a golf practice comprising a battery, an electronic sound generator that produces an audible sound to provide feedback to the golfer, and a single sensor switch. Pacheco also teaches, in FIGS. 2-5 and col. 3:4-16, the single sensor switch, from a plurality of sensor switches, closes the electrical circuit connecting the battery to the electronic sound generator when the golf practice device is struck by a ball coming from any direction. Pacheco, in FIG. 5, teaches an on-off switch that enables the user of the golf practice device to turn the power off when not using the putting practice device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the

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teachings of Pacheco into the disclosed invention of Lee. One would be motivated to combine the teachings of Pacheco with the disclosed invention of Lee in order to provide electronic feedback to a golfer and prevent unintentional activation during transporting or storage of the golf practice device.

Claims 5, 6, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee in view of Pacheco.

The disclosures of Lee and Pacheco have been discussed above and are, therefore, incorporated herein. However, Lee and Pacheco lack in disclosing the sound is that of a ball falling into a cup or a human voice. As discussed above, Pacheco taught a sound synthesizer that produces a sound when the golf ball hits the target (col. 3:25-33). Although Pacheco does not explicitly disclose the type of sound produced by the sound synthesizer, the selection of sound is merely a matter of design choice. The Applicant has not disclosed that the sound of a ball falling into a cup or a human voice provides an advantage, is used for a particular purpose, or solves a stated problem. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the sound of a ball falling into a cup or a human voice into the disclosed inventions of Lee and Pacheco. One would be motivated to implement the sound of a ball falling into a cup or a human voice into the disclose inventions of Lee and Pacheco in order to diversify the selection of sounds that can be heard by the sound synthesizer.

Claims 3, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco (USPN 5,735,751) in further view of Irving (USPN 5,259,622).

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The disclosures of Lee and Pacheco have been discussed above and are, therefore, incorporated herein. Pacheco also discloses a method of improving putting accuracy comprising placing a golf practice device on a carpet and putting golf balls at the golf practice device by disclosing in col. 3:25-28, the golfer places putting target on the outdoor practice green or indoor carpet in a desired location. Then the golfer sets up a putt on the target. As the ball rolls over the target, it depresses flexible molded pressure bars. However, Lee and Pacheco lack in disclosing the bottom of the body is attached to a material made of small hooks, whereby the golf practice device can be releasably attached to a fabric. Irving teaches, in col. 4:36-50 & fig. 4, as seen in figs. 1, 2, and 3, artificial turf may be provided on an upper surface of the platform for attempted realism. In such an instance, a circular portion of the turf may be removed, as seen in fig. 1, to receive the base of the tee to allow the base to be suitably fastened directly to the upper surface of the platform. While the base may be attached to the upper surface by means of a suitable adhesive, it would be preferable for the tee to be capable of removal from the platform, permitting its replacement. In such an instance, hook and loop fastening material such as that sold under the trademark "VELCRO" may be used as seen in fig. 4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Irving into the disclosed inventions of Lee and Pacheco. One would be motivated to combine the teachings of Irving with the disclosed inventions of Lee and Pacheco in order to allow golf player to easily attach and remove the golfer practice device from carpet (fabric).

Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco in further view of Irving (USPN 5,259,622).

The disclosures of Lee, Pacheco and Irving have been discussed above and are, therefore, incorporated herein. However, Lee, Pacheco and Irving lack in disclosing the sound is that of a ball falling into a cup or a human voice. As discussed above, Pacheco taught a sound synthesizer that produces a sound when the golf ball hits the target (col. 3:25-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the sound of a ball falling into a cup or a human voice into the disclosed inventions of Lee, Pacheco and Irving. One would be motivated to implement the sound of a ball falling into a cup or a human voice into the disclose inventions of Lee, Pacheco and Irving in order to diversify the selection of sounds that can be heard by the sound synthesizer.

Claims 9, 14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (USPN 5,584,768) in view of Pacheco in further view of Simms (USPN 4,757,194).

The disclosures of Lee and Pacheco have been discussed above and are, therefore, incorporated herein. Lee and Pacheco lack in disclosing a sensor switch with a spring mounted inside a ferrule. Instead, Pacheco discloses an open-close sensor switch. Simms teaches having a sensor switch that is a spring that makes contact with a ferrule when the sensor switch senses an application of force (col. 7:21-34). Simms discloses this feature with the intention of utilizing components that are inexpensive. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Simms into the disclosed inventions of Lee and Pacheco. One would be motivated to combine the teaching of Simms with the disclosure of Lee and Pacheco in order to decrease the cost of manufacturing the golf putting aid.

Response to Arguments

Applicant's arguments filed 06/07/2004 have been fully considered but they are not persuasive. The Applicant argues that there is no motivation to combine Lee in view of Pacheco. The Examiner respectfully disagrees. Lee discloses a golf ball putting aid that helps to improve putting proficiency. Lee discloses the structural features claimed in the Applicant's invention and also provides the exact same function (produces sound when the golf ball makes contact with the putting aid) as Applicant's invention. However, Lee lacks the electrical components (i.e. circuitry) of the Applicant's claimed invention. Pacheco discloses all the electronic components (i.e. switches and speaker) of the Applicant's invention and also produces the electronic sounds when struck by a golf ball. Pacheco lacks in disclosing the structural features of the Applicant's claimed invention. In view of the fact that Lee merely lacks the electronic components taught by Pacheco to provide a putting aid that produces electronic audio feedback when struck by a golf ball, it would have been obvious to incorporate the teachings of Pacheco to make Lee's *manual* putting aid an *electronic* putting aid.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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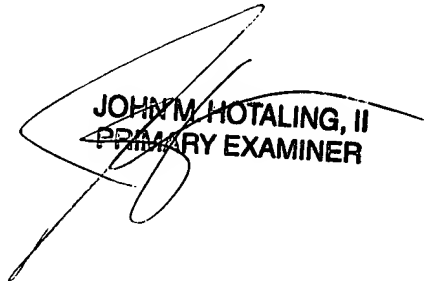
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Mendoza whose telephone number is (703) 305-7345. The examiner can normally be reached on Monday-Friday from 8:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, John Hotaling, can be reached at (703) 308-0780. The USPTO official fax number is (703) 872-9306.

RM

RM
September 15, 2004


JOHN M. HOTALING, II
PRIMARY EXAMINER